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March 4, 2010

Board of Selectmen
Town of East Windsor
11 Rye Street
Broad Brook, CT 06016

**Re: Opinion Regarding East Windsor Town Charter
To The Board of Selectmen**

Dear Sir/Madam:

In my capacity as Town Counsel, and pursuant to Section 6-6B2, you have asked me to furnish a written opinion on a question of law that has arisen as a result of a textual discrepancy between the recently amended East Windsor Charter, and a ballot question as it appeared at the last regular election during November of 2009. This opinion is also based upon the provisions of Connecticut General Statute Section 7-191 dealing with charter amendments.

Specifically, Section 8-5B4 currently states in part "... if the budget fails at the Third Referendum the budget goes back to the previous year's budget plus an increase not to exceed 2% and shall be deemed to be the approved budget for such year. . . ."¹ The ballot question approved by both the Charter Review Commission and the Board of Selectmen stated that . . . "shall the Charter be revised by modifying Chapter C8 (Finance and Taxation) to include, among revisions: an automatic budget referendum (maximum of three referenda) and, in the event of a failed third budget referendum, reversion to the prior year's annual budget increased by two (2) percent?" That ballot question passed at the regular election in November of 2009.

My review of the minutes from the Charter Review Commission, and the Board of Selectmen, as well as the ballot question, tell me that the text in the Charter as it appeared in the newspaper notice, and in the Charter as submitted to the Secretary of the State, are results of scrivener's error. There are two compelling reasons for this conclusion. First and foremost, the Charter Review Commission, and the Board of Selectmen, acting pursuant to the requirements of 7-191 placed on the ballot for the regular

¹ This language occurred as an error in transmission to the newspaper, and is not consistent with the language of the Charter Review Commission as approved by the Board of Selectmen and voted into effect by the Town electorate.

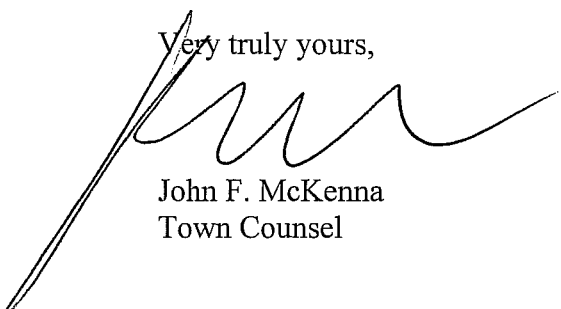
election the language that would increase the prior year's annual budget by 2% in the event of a failed Third Budget Referendum. Secondly, the language as it currently appears in the Charter, is both illogical and does not represent the clear intent of the Charter Review Commission, and the Board of Selectmen. To conclude that after a third failed referenda, the budget would revert to the prior year's budget plus an increase not to exceed 2% would not solve the problem that the Charter Review Commission and the Board of Selectmen intended to solve. The phrase "not to exceed 2% does not give a definite number, and the intention after a failed Third Budget Referendum was to work from a definite increase.

I conclude, therefore, that the language in the Charter as it now appears is the result of scrivener's error, and is subject to amendment, and resubmission to the Secretary of the State as amended.

Notice of the intended language should be re-published in the newspaper with the explanation that the language as it originally appeared in the newspaper notice was in error, and was not the language approved for the Charter. It is suggested that the Board of Selectmen approve this procedure, and that the newspaper publication appear not later than thirty (30) days after that approval. Another election under 7-191(f) is not necessary since the language that was intended was the language approved at the regular election. The corrected Charter then must be resubmitted to the Secretary of the State as an amendment to the Charter that was submitted after the regular election.

If requested, this office will assist in the preparation of the newspaper notice as well as the resubmission of the Amended Town Charter to the Secretary of the State.

Very truly yours,



John F. McKenna
Town Counsel

JFM:br